NEIL ABERCROMBIE GOVERNOR



DAVID M. LOUIE ATTORNEY GENERAL

RUSSELL A. SUZUKI FIRST DEPUTY ATTORNEY GENERAL

STATE OF HAWAII DEPARTMENT OF THE ATTORNEY GENERAL

425 QUEEN STREET HONOLULU, HAWAII 96813 (808) 586-1500

June 4, 2012

Mr. Hakim Ouansafi Executive Director Hawai'i Public Housing Authority 1002 North School Street Honolulu, Hawaii, 96817

RE: Whether the Hawai'i Public Housing Authority ("HPHA") is the Exclusive

Public Housing Agency ("PHA") with Statewide Jurisdiction for the State of

Hawai'i

Dear Director Ouansafi:

You have requested our advice whether the Hawai'i Public Housing Authority ("HPHA") is the duly established and exclusive entity designated by statute to act as a Statewide Public Housing Agency (PHA) for the State of Hawai'i. You have conversely asked whether an "out-of-State" PHA may serve as the designated PHA for the State of Hawai'i. You have asked for our advice to these questions because it is required to be submitted with your application for the Section 8 Performance Based Contracts Administration ("PBCA") program pursuant to the "Notice of Funding Availability" ("NOFA") issued by the U.S. Department of Housing and Urban Development on or about March 15, 2012. The deadline for your PBCA submission is June 11, 2012

We answer your questions as follows: pursuant to chapter 356D, Hawai'i Revised Statutes ("Haw. Rev. Stat."), HPHA is established as the exclusive Statewide public housing agency to administer, develop and manage low-income public housing projects and programs, including the Section 8 program, on behalf HUD or the State of Hawai'i. Accordingly, an "out-of-State" housing authority could not legally serve or be designated as the exclusive PHA for Hawai'i with Statewide jurisdiction. Chapter 356D, Haw. Rev. Stat., does not allow or authorize out-of State PHA's essentially to cross State lines and perform the duties and powers of the HPHA relating to low-income public housing on behalf of the State of Hawai'i.

The general powers of HPHA are set forth in section 356-4D, Haw. Rev. Stat., and include the power to "make and execute all contracts and instruments necessary and convenient

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to the exercise of its powers." Although section 356D-9, Haw. Rev. Stat., authorizes HPHA to enter into cooperative agreements with other government agencies," this section does not mean that an out-of-State PHA may unilaterally be designated to take control over the statutory duties and powers of HPHA. Clearly, HPHA may consent to cooperative, contractual arrangements with other governmental agencies and PHA's. These cooperative arrangements with other governmental agencies might include, among other things, obtaining the aid and cooperation in "the planning, construction, and operation of public housing projects". Section 356D9-(b)(6), Haw. Rev. Stat. However, there is nothing in chapter 356D, Haw. Rev. Stat. that allows any out-of State PHA to unilaterally undertake or perform the powers of HPHA.

Simply put, HPHA is the exclusive Statewide Public Housing Agency for the State of Hawai'i and no out-of State PHA may presume to take over or succeed to HPHA's statutory powers and duties as established under chapter 356D, Haw. Rev. Stat.

Sincerely

John C. Wong

Deputy Attorney General

APPROVED: Puncl G Sugar

DAVID M. LOUIE

Attorney General